

### **\*Changes to the 2009 Compliance Manual**

These are the major changes, updates, and additions to the 2009 Compliance Manual. The new information is shown here in **bold**, *italic*, and underlined font. However, the changes will not be formatted differently in the actual text of the manual.

Note that the changes identified here only represent those areas where there were major changes in policies or where new examples and clarifications have been added. Minor alterations such as changes in formatting, corrected grammatical errors, and minor changes in wording have not been identified in this section.

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## **Part 2.2 Responsibilities of Development Owner**

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### **I. Reporting to IHCDA any changes in ownership or management of the property**

In addition, the Owner must notify IHCDA immediately in writing of any changes in the ownership composition, the management agent, *or changes in contact information including name, address, e-mail address, telephone number, and fax number. Changes in management must be reported via IHCDA's "Property Management Change Form" in Appendix D of the 2009 Compliance Manual available at <http://www.in.gov/ihcda/2519.htm> ).*

### **J. Reporting tenant events and submitting Annual Owner Certifications (section previously entitled "Preparing and submitting Annual Owner Certifications)**

ADDED

*The Indiana Housing Online Management website has been designed as a tool to conduct compliance checks to ensure properties stay in compliance, to follow the monitoring review process, and as a way for IHCDA to communicate with our partners using a message board. The message board immediately notifies owners and property managers when IHCDA sends monitoring letters, releases Multi-Family Department Notices, or releases other information affecting our Multi-Family partners.*

*Beginning January 1, 2009 all IHCDA assisted multi-family rental developments will be required to enter tenant events using IHCDA's Indiana Housing Online Management rental reporting system. Tenant events include move-ins, move-outs, recertifications, unit transfers, and rent and income changes.*

*In order to obtain the maximum benefits from the Indiana Housing Online Management system it is required that all tenant events be entered into the system within thirty (30) days of the event date.*

*Additionally, beginning in 2009 it is mandatory that all Annual Owner Certification Rental Reports be submitted electronically using the Indiana Housing Online Management website for developments that contain more than ten (10) IHCDA assisted units (i.e. HOME, CDBG, Tax Credits, and Development Fund). Note: This*



process will eliminate the option of importing the annual beneficiary report from an Excel spreadsheet.

To use the rental reporting system or register to become a user, please visit the Indiana Housing Online Management website at <https://ihcdaonline.com/>. Free on-demand training videos that explain how to use the rental reporting system are available through the website at <https://ihcdaonline.com/Links.htm>.

**K. Training on-site personnel**

ADDED

As a best practice, IHCDA encourages the Owner to make certain that the development's property management and compliance personnel are familiar with the Compliance Manual, the compliance forms and information on IHCDA's website (see <http://www.in.gov/ihcda/2519.htm>), and the online reporting requirements through the Indiana Housing Online Management website (accessed through <https://ihcdaonline.com/>, for more information read Part 2.2, J above).

For information on IHCDA Compliance Trainings, refer to Part 5.3 and IHCDA's compliance website (<http://www.in.gov/ihcda/2519.htm>).

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**2.3 Responsibilities of the Management Company & On-site Personnel**

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The Management Company and all on-site personnel are responsible to the Owner for implementing the RHTC program requirements properly. Anyone who is authorized to lease apartment units to Tenants should be thoroughly familiar with all federal and state laws, rules, and regulations governing certification and leasing procedures. It is also important that the Management Company provide information, as needed, to IHCDA and submit all required reports and documentation in a timely manner. As of January 1, 2009, IHCDA requires that all tenant events be reported via the Indiana Housing Online Management rental reporting system within thirty (30) days of the event date. (For more information about the online reporting system requirements, see Part 2.2, J).

The Owner is ultimately responsible for compliance and proper administration of the RHTC Program. IHCDA expects all Owners to demonstrate "due diligence," hereby defined as the appropriate, voluntary efforts to remain in compliance with all applicable Section 42 rules and regulations. Due diligence can be demonstrated through business care and prudent practices and policies. The 8823 Guide (page 3-4) indicates that part of due diligence is the establishment of internal controls, including but not limited to: separation of duties, adequate supervision of employees, management oversight and review (internal audits), third party verifications of tenant income, independent audits, and timely recordkeeping.

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## Part 3.2 Minimum Set-Aside Requirements and Income Limits

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### B. Maximum Income Limits

ADDED THE FOLLOWING EXAMPLES:

*Example 1- Property funded prior to 2003: XYZ Apartments is a 100% tax credit development with 100 units. The Federal set-aside is “40/60,” but in the Final Application and Extended Use Agreement, the Owner elected that 70 units would be at the 60% AMI level and 30 units would be at the 50% AMI level. The 60% units must be charged no more than the applicable 60% rent level and must be occupied by households not exceeding 60% of area median income. The 50% units must be charged no more than the applicable 50% rent level and must be occupied by households not exceeding 50% of area median income. All units are both rent and income restricted at the State set-aside, as chosen in the Final Application and recorded in the Extended Use Agreement.*

*Example 2- Property funded after 2003: XYZ Apartments is a 100% tax credit development with 100 units. The Federal set-aside is “40/60,” but in the Final Application and Extended Use Agreement, the Owner elected that 70 units would be at the 60% AMI level and 30 units would be at the 50% AMI level. The 60% units must be charged no more than the applicable 60% rent level and must be occupied by households not exceeding 60% of area median income. The 50% units must be charged no more than the applicable 50% rent level, BUT may be occupied by households earning up to 60% of area median income. The units are rent restricted at the State set-asides, as chosen in the Final Application and recorded in the Extended Use Agreement. However, the units are income restricted at the elected Federal set-aside of 60%.*

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## Part 3.3 Maximum Gross Rent

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The maximum gross rent is the greatest amount of rent, including Tenant paid utilities (except telephone, cable television, and internet), that can be charged for a RHTC unit. (See Part 3.4 for more information on Utility Allowances).

### B. Allowable Fees and Charges

ADDED THE FOLLOWING EXAMPLE

*Example: Charges for paying with credit/debit card*

*Some properties may have a credit/debit card machine onsite to allow tenants to pay rent in this method. The monthly fee incurred from having a machine onsite can be passed onto the tenants as long as it is an optional fee. The fee would be considered optional if the tenants have alternate methods of paying rent that do not include a fee (i.e. cash, check, etc.). In this scenario, the credit/debit machine would be an optional service offered for the tenant’s convenience. The amount of the fee for paying with credit/debit card, as well as a list of all*

accepted alternative methods of payment must be disclosed to all tenants. Furthermore, the fee may not surpass the actual cost incurred from the machine. Management must keep documents showing the actual costs of having the machine onsite and the amount of the fee being charged to tenants.

If credit/debit card is the only means of paying monthly rent, then the fee is not optional, but rather a condition of occupancy (as paying rent is a condition of occupancy). In this case, the credit/debit card machine fees would have to be included as part of the gross monthly rent calculation.

### C. Section 8 Rents

ADDED

Gross rent cannot exceed the applicable tax credit rent limit at initial move-in. However, the gross rent can later increase above the applicable tax credit rent limit if the tenant paid rent portion increases as a requirement of the rental assistance program (generally rental assistance programs require that the household pays a certain percentage of its income on rent).

Example 1: In 2008, Mr. Jones moves into a one bedroom unit at XYZ Apartments, a tax credit development with 50 units at the 50% set-aside. The maximum allowable rent for a one bedroom unit at the 50% restriction in this county is \$425. Mr. Jones pays a monthly tenant rent portion of \$300 and receives Section 8 rental assistance of \$100 per month. The utility allowance for the unit is \$100. The gross rent for tax credit purposes is the sum of the tenant paid rent (\$300) and the utility allowance (\$100), for a total of \$400. Since the total monthly gross rent is below the applicable rent limit (\$425), the unit is in compliance. XYZ Apartments may take the \$100 in monthly rental assistance from the Section 8 program in addition to the tenant paid rent.

Example 2: In 2009, Mr. Jones's annual income increases. Since Section 8 requires that the tenant pay 30% of adjusted income in rent, Mr. Jones's monthly tenant paid rent portion must increase. Mr. Jones now pays a monthly rent of \$350 and the Section 8 rental assistance decreases to \$50. The utility allowance remains at \$100. The gross rent is now the sum of the tenant paid rent (\$350) and the utility allowance (\$100,) for a total of \$450. This unit is in compliance even though the gross monthly rent exceeds the applicable tax credit rent limit of \$425. This is because Mr. Jones's tenant paid rent portion did not exceed the limit at initial move-in and has since increased to comply with the rules of the Section 8 program.

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## Part 3.4      Utility Allowances

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The maximum gross rent includes the amount of Tenant paid utilities. Utilities include heat, electric, water, sewer, oil, gas, and trash, where applicable. Utilities do not include telephone, cable television, or internet.

When utilities are paid directly by the Tenant (as opposed to the Development), a Utility Allowance must be used to determine maximum eligible unit rent. To qualify as part of the utility allowance, the cost of any utility (other than telephone, cable television, or internet) must be paid directly by the tenant(s),



and not by or through the owner of the building. If the owner or a third party separately bills the Tenant for a utility, the payment designated for the utility must be considered rent and may not be included in the utility allowance. The Utility Allowance (for utility costs paid by the Tenant) must be subtracted from the maximum gross-rent to determine the maximum amount of allowable Tenant-paid rent.

- E. IHCDA Estimate: Upon request, IHCDA will calculate a utility allowance estimate for a development. Requests for an IHCDA Estimate must be made via the “IHCDA Utility Allowance Estimate Request Letter” (available in Appendix L of the 2009 Compliance Manual at <http://www.in.gov/ihcda/2519.htm>). Along with the request letter, the development must complete and submit the “IHCDA Tenant Usage Data Form” (available in Appendix L of the 2009 Compliance Manual at <http://www.in.gov/ihcda/2519.htm>). This usage data form must include information for 30% of the units of each unit type (flat or townhome) for each bedroom size. (Note: There are two separate usage data forms for flats and townhomes). The usage data must contain a full 12 months of consumption. To be included in the estimate, a unit must have 44 weeks of continuous consumption data (i.e. the unit cannot have been vacant for more 8 weeks of the year).

Example: A development has 40 total low income units with 20 one bedroom units and 20 two bedroom units. The sample must include 30% of the one bedroom units (6 units) and 30% of the two bedroom units (6 units).

The request must be 60 days prior to the 90-day expiration date of the current effective utility allowance. The fee for IHCDA to review the model is \$75 per development. Once IHCDA calculates the estimate, the Utility Allowance(s) will be effective for one year from the date stated on the IHCDA Approved Utility Allowance Estimate.

Note: Developments with non-corrected 8823s will not be eligible to use this option until the outstanding issues have been corrected.

- F. HUD Utility Schedule Model: The Owner may calculate Utility Allowances using the HUD Utility Model found at [www.huduser.org/datasets/lihtc.html](http://www.huduser.org/datasets/lihtc.html). Both the Model and the supporting documentation used in the Model must be submitted to IHCDA for approval prior to implementation. The request must be made 60 days prior to the 90-day expiration date of the current effective utility allowance. Once approved, the Utility Allowance(s) will be good for one year from the date of IHCDA approval. The fee for IHCDA to review the model is \$75 per development.

Note: Developments with non-corrected 8823s will not be eligible to use this option until the outstanding issues have been corrected.

- G. Energy Consumption Model: The Owner may use an independent licensed engineer or qualified professional approved by IHCDA (a list of approved engineers will be maintained on IHCDA’s website) to calculate the consumption model. The utility consumption estimate must be calculated by either a properly licensed engineer or a qualified professional approved by the Agency that has jurisdiction over the building. The qualified professional and the building Owner must not be related as defined in Section 267(b) or 707(b). To become IHCDA approved, the engineer/ qualified professional must submit the “Approved Energy Consumption Provider Application”



(available in Appendix L of the 2009 Compliance Manual at <http://www.in.gov/ihcda/2519.htm>).

The consumption estimate must take into effect the types of appliances, building location, building orientation, design and materials, mechanical systems, and unit size. The Model and supporting documentation must be submitted to IHCDA for approval prior to implementation, along with the “IHCDA Energy Consumption Approval Request” letter (available in Appendix L of the 2009 Compliance Manual at <http://www.in.gov/ihcda/2519.htm>). The request must be made 60 days prior to the 90-day expiration date of the current effective utility allowance. Once approved, the Utility Allowance(s) will be good for one year from the date of IHCDA approval. The fee for IHCDA to review the model is \$75 per development.

Note: Developments with non-corrected 8823s will not be eligible to use this option until the outstanding issues have been corrected.

\*NOTE: The Owner must use the most current applicable utility allowance and provide documentation annually. Owners may combine utility allowances from different sources to benefit the development. When using multiple utility allowance sources for different utilities, the Owner must clearly document which source is being used for each utility type. Furthermore, the Owner may elect to change the utility allowance type from year to year.

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## Part 3.5 Rules Governing the Eligibility of Particular Residential Units

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### B. Vacant Unit Rule

Vacant units formerly occupied by low-income individuals may continue to be treated as occupied by a qualified low-income Household for purposes of the Minimum Set-Aside requirement (as well as for determining qualified basis) provided reasonable attempts were or are being made to rent the unit (or the next available unit of comparable or smaller size) to an income-qualified tenant before any units in the development were or will be rented to a nonqualified tenant. Management must document that reasonable attempts were made to rent vacant tax credit units before renting vacant market-rate units.

Units cannot be left permanently vacant and still satisfy the requirements of the RHTC program. IHCDA reserves the right to question vacancies that are noted during a physical inspection, file review, or Annual Owner Certification review, especially when there is a high quantity of vacancies or when units have been vacant for longer than 90 days. The Owner or manager must be able to document attempts to rent the vacant units to eligible Tenants.

### C. 140% Rule/Next Available Unit Rule

ADDED

Note: The Next Available Unit Rule does not apply for developments that have been approved for the Extended Use Policy. For more information on the Extended Use Policy see Part 5.11, specifically Part 5.11 C, Compliance Requirements.





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## Part 3.6 Rules Governing the Eligibility of Particular Tenants and Uses

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### B. Student Status

There are five exceptions to the full-time Student restriction. Full-time Student Households that are income eligible and in which at least one of the Household members satisfies one or more of the following conditions can be considered an eligible Household. A Household comprised entirely of full-time Students may not be counted as a qualified Household under the RHTC Program, unless the Household meets one of the following five exceptions:

5. At least one member of the Household was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of the Title IV of the Social Security Act. The member claiming to have been a foster child must have been placed into foster care through an official foster agency. To verify that a Household meets this exemption, management should attempt to receive a 3<sup>rd</sup> party verification from the foster care agency. NOTE: This exemption only applies to eligibility determinations made on or after 7/30/08.

For purposes of qualifying Households containing Students to live in RHTC Developments, IHCDA will:

- Consider a single person Household ineligible if he or she is a full-time Student at the time of initial occupancy, has been a full-time Student for at least five months out of the calendar year (the five months need not be consecutive), or will be at any time during the certification period (unless the individual meets one of the student exceptions described above);

### D. Managers/Employees as Tenants

Additionally, IHCDA will consider requests for additional manager/employee units during the Compliance Period for good cause. To request a manager/employee unit the Owner must submit the request in writing with documentation supporting the need for the manager/employee unit.

Requests should be submitted to IHCDA using the “Staff Unit Request Form” in Appendix D of the 2009 Compliance Manual available in the online references at <http://www.in.gov/ihcda/2519.htm> ).

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## Part 4.2 Tenant Application & Tenant Eligibility Questionnaire

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ADDED

- F. Collection of demographic data: The Housing and Economic Recovery Act (H.R.3221) passed by Congress on July 31, 2008 requires HUD to collect and report the following information for all LIHTC tenants:

-Race  
-Ethnicity



- Family composition
- Age
- Income
- Use of Section 8 (or similar) Rental Assistance Program
- Disability Status; and
- Monthly Rental Payment

HUD's current Implementation Plan calls for the following actions and timeline in regards to this new policy:

1. Advanced Notice of Proposed Rulemaking announced March 2009
2. Proposed Rule announced July 2009
3. Final Rule announced November 2009
4. Data Repository System Completed by January 2010
5. Begin Collection of Demographic Data from States in January 2010

This policy will require that RHTC Developments report this demographic data for all Household members. IHCDA will stay current on updates from HUD and announce policies as they become finalized. Furthermore, IHCDA is being proactive in anticipation of these data collection requirements and is already requesting the necessary information in the online reporting system.

DELETED

~~F. Collection of demographic data. Beginning January 1, 1999, all Owners of Developments were required to offer all applicants for housing in Credit units the opportunity to voluntarily disclose on his/her Application for an apartment or Credit unit the following information concerning the members of his/her Household that will be occupying the unit:~~

~~The following information is requested in order to help monitor and observe those impacted by and/or benefiting from the RHTC Program. The Tenant is not required to furnish this information, but is encouraged to do so. The Owner or property manager may not discriminate on the basis of this information or on whether or not the Tenant chooses to furnish it. However, if the Tenant chooses not to furnish it, the Owner or property manager must note race on the basis of visual observation and/or surname. If the Tenant does not wish to furnish the information, the Tenants wishes should be indicated on the demographic data form completed by the Tenant.~~

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## **Part 4.5 Annual and Interim Income Re-certification Requirements**

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ADDED

Please note the following excerpt from the 8823 Guide, pages 4-14 and 4-15:

### **Tenant Income Certification Effective Date**

Once all sources of income and assets have been properly verified, owners or managers perform an income calculation using the applicant's tenant income certification to determine whether the applicant qualifies for IRC §42 housing.





The effective date of the tenant's income certification is the date the tenant actually moves into the unit. All adult members of the household should sign the certification. HUD Handbook 4350.3, 5-17B. If the certification is more than 120 days old, the tenant must provide a new certification.. The income recertifications must be completed annually based on the anniversary of the effective date.

**Example 1: Determining the Tenant Income Certification Effective Date**

A potential household consisting of John and Jane Doe and their two children completed a rental application and income certification on April 12, 2004. The property manager completed the third party verifications and determined that the household was income eligible on April 21, 2004. John and Jane signed the rental lease on April 25th, and took possession of the unit on May 1, 2004. The effective date of the tenant income certification is May 1, 2004. All subsequent tenant income recertifications must be performed within 120 days before May 1st of each subsequent year of the 15-year compliance period. When additional adult individuals join the household, the effective day will remain the same until the unit is completely vacated.

Therefore, the RHTC recertification date for a Household may not change to align with the recertification date for other programs, even if this means that a Household must be certified multiple times annually for multiple programs. The effective date of recertification is the anniversary date of the move-in. Recertifications must be completed within 120 of the anniversary date.

Example: A Household moves into a tax credit unit on January 1, 2008. On March 1, 2008 the Household begins receiving Section 8 rental assistance and its income is verified and certified for this program. The effective date for the Household's annual tax credit recertification is January 1, 2009, NOT March 1, 2009.

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**Part 4.6 ~~Annual Re-certification Waiver~~ 100% Recertification Waiver**

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ADDED

Effective July 31, 2008 with the passing of the Housing and Economic Recovery Act (H.R.3221), IHCD will waive the Annual Income Recertification requirement for 100% Tax Credit Projects. This policy applies only to recertifications due after the effective date of July 31, 2008 and is not retroactive.

Projects that choose to use the 100% Recertification Waiver Policy only have to obtain verifications of Household income and assets at move-in. However, management must still check Household composition and student status on an annual basis. This must be done on the annual recertification date for the Household. IHCD recommends using the "100% Tenant Recertification Waiver Tenant Recertification" Form available online in the 2009 Compliance Manual, Appendix D.

The recertification waiver automatically applies to all projects with 100% RHTC units (i.e. those projects that have no market rate units). Projects do not need to apply for or ask for IHCD permission to stop performing annual income recertifications. This policy replaces IHCD's former waiver request policy and procedures.



*If a project is not 100% RHTC, then the Annual Income Recertification is still required. If there is one market unit in the project, or if a staff unit is treated as a market unit, then all units in the project must be recertified annually. It is important to correctly define "Project" for each tax credit development. If "No" was checked on Part II 8b of IRS Form 8609, then each building in the property is considered its own project. If "Yes" was checked on Part II 8b of IRS Form 8609, then all buildings in the property are considered one multi-building project. The recertification waiver applies on a project level.*

*100% Tax Credit Projects with HOME, Trust Fund, or CDBG funds are still required to annually obtain third party income verifications for those units receiving the additional sources of funding.*

*Example: XYZ Apartments is a 100% Tax Credit Project with 50 units. 10 of these units are HOME assisted units. The 10 HOME assisted units must continue to recertify income on an annual basis, since the HOME program rules have not changed in regards to recertification requirements. The 40 tax credit only units may follow the 100% Recertification Waiver Policy.*

*Note: IHEDA encourages the Owner/Development to check with their investor before initiating the 100% Recertification Waiver Policy.*

## DELETED

IRS Revenue Procedure 2004-38, replaces IRS Procedure 94-64 becoming effective on July 6, 2004, establishing the procedure on how to seek a waiver of the Annual Income Re-certification requirement allowed by Section 42 of the Code (online references at [http://iheda.in.gov/developers\\_section42.aspx](http://iheda.in.gov/developers_section42.aspx); Compliance Manual, Appendix A).

The law provides that "on application of the taxpayer, the (Treasury) Secretary may waive any annual re-certification of Tenant income for purposes of Section 42(g), if the entire building is occupied by low-income Tenants." Although the Code uses the word "building" with reference to waivers, requests are made for complete Developments. Waivers will not be granted for individual buildings. In addition, although the Code uses the word "re-certification waiver", the requirement for the Owner to annually receive 3<sup>rd</sup> party income Verifications for Tenants is the only requirement that actually is waived.

### A. General Waiver Information

When an Owner receives a waiver from the IRS, the Owner then will not be required to:

1. Keep records showing income Verifications of any occupant who has previously had his or her Annual Income, verified, documented, and certified;
2. Maintain income Verification documentation; or
3. Certify to the Indiana Housing and Community Development Authority that such documentation has been received.

The waiver only waives the requirement to obtain Verifications of Income and Assets of existing residents. All new applicants/residents must be fully qualified with complete verifications and certifications. This includes existing residents who transfer to a different apartment outside the same building.

Additionally, a Tenant Certification must still be completed showing the anticipated Income the Tenant expects to receive in the next twelve months and the Student status of the Tenant. Finally, rents must still be tracked on an ongoing basis to ensure that restricted rent levels are maintained and



~~Utility Allowance requirements are followed. IHCD is still required by the IRS to perform compliance monitoring reviews of the development at least once every three years.~~

~~At a minimum, the following items must continue to be present in the Tenant's file when the property obtains the waiver:~~

- ~~1. Initial Application, Tenant Eligibility Questionnaire, Tenant Certification, and Verifications of Income, Assets and other eligibility requirements from the move-in date of the Tenant;~~
- ~~2. Annual Tenant Certifications and Tenant Eligibility Questionnaires with the anticipated income the Tenant expects to receive in the next twelve months and the Student status of the Household (after the initial Tenant Certification, Income Verifications are no longer required);~~
- ~~3. Initial and subsequent leases.~~

~~Note: The Annual Owner Certification of Compliance, monitoring fees, and supporting documents are still a requirement for a Development with a waiver.~~

#### ~~B. Term of Waiver~~

~~The waiver will take effect on the date the Service approves the waiver.~~

~~The Owner must continue standard re-certification practices until the waiver letter is actually received from the IRS, and a copy is furnished to IHCD.~~

~~A waiver remains in effect unless revoked by the IRS. The IRS can revoke a waiver for the following reasons:~~

- ~~• If a building ceases to be 100% RHTC;~~
- ~~• If IHCD reports compliance problems through the submission of a Form 8823 to the IRS;~~
- ~~• There is a pattern of households comprised entirely of full-time students;~~
- ~~• Owner no longer submits Annual Owner Certification of Compliance to IHCD;~~
- ~~• Change in ownership of the property (will be revoked automatically for change in ownership);~~
- ~~• Building ceases to be decent, safe and sanitary for tenants;~~
- ~~• The IRS determines that owner has violated Section 42 in a manner that is sufficiently serious enough to warrant revocation.~~

~~If revocation occurs, the Owner of the property will have to re-certify all residents, beginning on the effective date of the revocation, as if the waiver had never been granted.~~

#### ~~C. Waiver Conditions~~

~~To obtain a waiver, the Development must meet the following criteria:~~

- ~~1. No non-compliance issues are outstanding;~~
- ~~2. Each current resident is a qualified low-income resident;~~
- ~~3. All adult Tenants in the Household have signed a sworn statement to document income in accordance with procedures in Revenue Procedure 2004-38 (See online references at [http://ihcd.in.gov/developers\\_section42.aspx](http://ihcd.in.gov/developers_section42.aspx), Compliance Manual, Appendix A);~~
- ~~4. The Development is one hundred percent (100%) RHTC eligible;~~



- ~~5. The Development has received an IRS form 8609 and has been through at least one reporting cycle with IHCD, including tenant file review and Annual Owner Certification of Compliance review;~~
- ~~6. The Development must have no outstanding items of noncompliance with Section 42 Regulations; and~~
- ~~7. The Development and its owner(s) and management agent must be in good standing with IHCD.~~

#### ~~D. Requesting a Waiver~~

~~If an Owner decides to request a waiver, a file review of 100% of the Development's units must be performed.~~

~~To request the re-certification waiver the development owner must submit the "Application for the Re-certification Waiver", along with the application fee of \$150.00. The fee must be received before an application will be reviewed. The application fee is non-refundable, but will be credited to the development's total fee if waiver review is completed.~~

~~After a review of the property has occurred IHCD will provide the Owner a statement that each residential unit in the building is in compliance with Section 42. Once the development owner has received the letter from IHCD, the owner will need to complete and sign Part I of IRS Form 8877 and submit to IHCD. IHCD will review the form, complete the State's portion and return to the development owner. The development owner must then complete Part II of Form 8877 and submit the original to the IRS and a copy to IHCD to be kept with the Development's records. No other party may submit a waiver request.~~

~~— IRS Form 8877 must be sent to:~~

~~The Internal Revenue Service  
PO Box 245  
Philadelphia, PA 19255~~

~~When the IRS approves the waiver, the owner is responsible for sending a copy of the approval notice to IHCD. The development will continue to be treated as a non-re-certification waiver property until the IRS approval letter is received by IHCD.~~

#### ~~E. Denial and Appeals Process~~

##### ~~Denials~~

~~If IHCD finds an issue of non-compliance with the waiver application or any tenant file during the file review process the owner is responsible for providing a timely response to IHCD's correction requests with the following submission guidelines:~~

- ~~• First request — The owner has seven business days to provide the requested documentation. If the owner fails to respond or the documentation fails to correct the issue(s) of non-compliance, a second request will be issued.~~
- ~~• Second request — The owner has five business days to provide requested documentation. If owner fails to respond or the documentation fails to correct the issue(s) a final request will be issued.~~
- ~~• Final request — The owner has three business days to provide the requested documentation.~~



- ~~If there is not a reply received from the owner, the development will be denied the waiver for failure to respond.~~

~~The owner may request an extension in writing for the submission of the requested documentation. No extension request from the management company will be accepted. If the owner received a request from IHCD A for information and requires an extension to submit documentation, a written request must be submitted to the Multi-Family Manager at:~~

~~30 South Meridian Street, Suite 1000  
Indianapolis, IN 46204~~

~~The request must be received prior to the last day the submission is due. Failure to follow guidelines may result in the denial of the Re-certification waiver application.~~

~~IHCDA reserves the right to deny an application even if non-compliance issues are resolved, or for just cause. If IHCD A finds patterns of Management/Owner practices that are inconsistent with IRS and/or IHCD A standards, the Waiver may be denied. Violations may include, but are not limited to:~~

- ~~Backdated forms (tenant Income Certifications, Sworn Income and Asset Statements, etc.);~~
- ~~Correction fluid used on forms;~~
- ~~Signing required forms prior to dates allowable by IHCD A;~~
- ~~Lack of response on the part of the management/owner to issues identified during the tenant file review process of the development.~~

## Appeals

~~If the Re-certification Waiver is denied, an appeal must be submitted to IHCD A within ten (10) business days from the date of denial. An appeal must be in writing on the Company letterhead and signed by the Owner. The written appeal must describe in detail why the appeal should be granted and provide documentation to that effect. Appeals need to be submitted to the Multi-Family Manager and the above listed address. IHCD A will provide the owner with a written notification of the appeal decision. All decisions to deny an appeal are final. Any Development denied a Re-certification waiver may submit an application the following calendar year and complete the process again.~~

## F. Waiver Fees

~~The fees for the Re-certification waiver are on a per unit basis. The fee will be \$30.00 per unit with a minimum of \$500.00 for initial review. For each unit that requires a second review (for corrections) an additional charge of \$10.00 per unit reviewed will be imposed.~~

~~All initial review fees must be paid in full by no later than ten (10) business days prior to the site review. IHCD A reserves the right to cancel reviews if applicable fees are not received on a timely basis. Checks should be made payable to Indiana Housing and Community Development Authority and sent to 30 South Meridian Street, Suite 1000 Indianapolis, IN 46204.~~



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## Part 5.1 Owner and Management Agent Contacts

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IHCDA will allow no more than one Owner contact name and address and one Management contact name and address per Development. If at any time the contact person of the Owner or Management Agent changes, it is the sole responsibility of the Owner to inform IHCDA in writing of such change with supporting documentation. *Changes in Management must be reported to IHCDA via the “Property Management Change Form” in Appendix D of the 2009 Compliance Manual available at <http://www.in.gov/ihcda/2519.htm>.*

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## Part 5.3 Compliance Training Workshops

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ADDED

*IHCDA’s 2009 Compliance Trainings are targeted towards onsite property management personnel. The trainings will be in the format of interactive workshops, involving work with tenant files, as well as case studies and games. IHCDA has contracted with Compliance Solutions to offer nine trainings throughout the year, three in the spring, three in the summer, and three in the fall. All trainings will take place in the community rooms of existing tax credit developments throughout the state. The cost will be \$75 per participant, which includes registration fees, a workshop manual, a 2009 IHCDA Compliance Manual, and a CD with various tax credit resources. The dates and locations are listed below:*

<u><i>DATE</i></u>	<u><i>CITY</i></u>	<u><i>LOCATION</i></u>
March 31, 2009	Hammond, IN	Douglas Pointe Apts
April 1, 2009	Noblesville, IN	Princeton Lakes Apts
April 2, 2009	Evansville, IN	Dalehaven Apts
July 14, 2009	Fort Wayne, IN	Time Corners Crossing
July 15, 2009	Indianapolis, IN	Nora Commons on the Monon
July 16, 2009	Terre Haute, IN	Anthony Square Apts
October 13, 2009	Elkhart, IN	The Cornerstone
October 14, 2009	Indianapolis, IN	Red Maple Grove
October 14, 2009	New Albany, IN	Valley Ridge Apts

*For registration and other additional information, please see IHCDA’s compliance webpage at <http://www.in.gov/ihcda/2519.htm>.*

*\*Note: While participation is voluntary, IHCDA compliance staff may at their own discretion mandate attendance for those management personnel/companies that exhibit trends in noncompliance and/or are issued non-corrected 8823’s.*

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## Part 5.5 Annual Owner Certification of Continuing Compliance

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DELETED

IHCDA has developed a Compliance Reporting System whereby the Rental Housing Tax Credit Development Compliance Report Tenant information may be submitted to IHCDA via its web site. For





more information on this system, the owner may contact IHCD A at (317) 232-7777 and ask for the RHTC Compliance Department.

**All Annual Owner Certifications and Rental Housing Tax Credit Development Compliance Reports must be typed or computer generated in the same format provided by IHCD A in *online references* at [http://ihcda.in.gov/developers\\_section42.aspx](http://ihcda.in.gov/developers_section42.aspx), *Compliance Manual*, Appendix G, or submitted via IHCD A's web site reporting system. IHCD A will not accept any Owner Certification or Development Compliance Report that is not in the same format as provided in the online references at [http://ihcda.in.gov/developers\\_section42.aspx](http://ihcda.in.gov/developers_section42.aspx), *Compliance Manual*, Appendix G or is hand written.**

ADDED

**The Indiana Housing Online Management website has been designed as a tool to conduct compliance checks to ensure properties stay in compliance, to follow the monitoring review process, and as a way for IHCD A to communicate with our partners using a message board. The message board immediately notifies owners and property managers when IHCD A sends monitoring letters, releases Multi-Family Department Notices, or releases other information affecting our Multi-Family partners.**

**Beginning January 1, 2009 all IHCD A assisted multi-family rental developments will be required to enter tenant events using IHCD A's Indiana Housing Online Management rental reporting system. Tenant events include move-ins, move-outs, recertifications, unit transfers, and rent and income changes.**

**In order to obtain the maximum benefits from the Indiana Housing Online Management system it is required that all tenant events be entered into the system within thirty (30) days of the event date.**

**Additionally, beginning in 2009 it is mandatory that all Annual Owner Certification Rental Reports be submitted electronically using the Indiana Housing Online Management website for developments that contain more than ten (10) IHCD A assisted units (i.e. HOME, CDBG, Tax Credits, and Development Fund). Note: This process will eliminate the option of importing the annual beneficiary report from an Excel spreadsheet.**

**To use the rental reporting system or register to become a user, please visit the Indiana Housing Online Management website at <https://ihcdaonline.com/>. Free on-demand training videos that explain how to use the rental reporting system are available through the website at <https://ihcdaonline.com/Links.htm>.**

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## **Part 5.6 IHCD A Tenant/Unit File Review and On-site Development Inspections**

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**B. When performing an in-house (at IHCD A offices) review, IHCD A will:**

1. Notify the Owner in writing which unit files have been selected for review.
2. Respectfully request that copies of the selected files and documentation either be shipped to IHCD A or hand delivered by the Owner or a Representative of the Owner. **NOTE: For in-house audits, IHCD A prefers to receive electronic files rather than paper "hard copies." Electronic documents should be submitted in PDF format on a CD-ROM, not via email**



attachments. Each requested tenant file should be submitted as a separate PDF file and labeled as the Unit #.

D. After performing an on-site Development Inspection, IHCDA will:

1. Provide to the property representative, if needed, a copy of a Critical Violations Letter identifying all exigent health, safety, and/or fire hazards observed at the time of the inspection that require immediate corrections. NOTE: All exigent health and safety issues identified in the Critical Violations Letter must be corrected within 24-hours and IHCDA must be notified of the completed corrections within 72-hours.
6. Schedule a second inspection if necessary. NOTE: IHCDA will charge additional monitoring fees if IHCDA staff must return to a site for an additional physical inspection or file review. These fees will equal the greater of (a) \$250 or (b) \$35 per unit. For more information on these additional fees, see 5.8 C.

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## Part 5.8 Compliance Monitoring Fees

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ADDED

Table 1: Annual Monitoring Fees for Submissions On or Before January 31<sup>st</sup>

<u>Annual Fee Per Unit</u>	<u>Minimum Annual Fee Per Development</u>	<u>Maximum Annual Fee Per Development</u>
<u>\$22</u>	<u>\$180</u>	<u>\$6000</u>

Table 2: Annual Monitoring Fees for Submissions After January 31<sup>st</sup>

<u>Annual Fee Per Unit</u>	<u>Minimum Annual Fee Per Development</u>	<u>Maximum Annual Fee Per Development</u>
<u>\$44</u>	<u>\$360</u>	<u>\$12,000</u>

Table 3: 8823 Correction Fees

	<u>Per Unit Fee</u>	<u>Maximum Fee Per Development</u>
<u>File re-inspection</u>	<u>\$100</u>	<u>\$15,000</u>
<u>Physical re-inspection</u>	<u>\$200</u>	<u>\$15,000</u>

C. Re-inspection or Re-monitoring Fees

IHCDA will charge additional monitoring fees if IHCDA staff must return to a site for an additional physical inspection or file review. These fees will equal the greater of (a) \$250 or (b)



\$35 per unit, with a maximum fee of \$15,000 per development. These fees will be applied in the following situations:

1. If staff must return to check on deficiencies or errors noted during the initial inspection/monitoring; or

2. If staff could not complete the initial inspection/monitoring because owner/management representative was not available onsite at the designated time and location.

**Table 4: Re-inspection / Re-monitoring Fees**

<u>Per Unit Fee</u>	<u>Minimum Fee Per Development</u>	<u>Maximum Fee Per Development</u>
<u>\$35</u>	<u>\$250</u>	<u>\$15,000</u>

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## **Part 5.10 Amendments to Compliance Monitoring Procedures**

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ADDED

The 2009 Compliance Manual includes major amendments in the following areas. Please make certain to carefully read these sections of the Manual and to contact the IHCD A compliance staff with any questions.

Online Reporting Requirements- See Part 2.2 J or Part 5.5

Updated Utility Allowance information- See Part 3.4

100% Recertification Waiver- See Part 4.6

Submitting desktop monitoring files in PDF format- See Part 5.6 B

Updated tables on monitoring fees- See Part 5.8

Extended Use Policy- See Part 5.11

In addition, IHCD A periodically releases Multi-Family Department Notices (MFD Notices) containing updates on policies, sample forms, and other issues relevant to the Section 42 RHTC Program. These notices are available online at <http://www.in.gov/ihcda/2520.htm> and on the message board on the Indiana Housing Online Management rental reporting system (<https://ihcdaonline.com/>). MFD Notices are also released via IHCD A INFO, an electronic newsletter sent twice a month. Register for IHCD A INFO at <http://www.in.gov/ihcda/2347.htm>

The following was deleted from this Part 5.10, but is still found in the manual under Parts 2.2 L and 6.4. It was removed from this section of the manual as it is not an amendment to monitoring procedures.

~~Noncompliance issues identified and corrected by the owner prior to notification of an upcoming compliance review or inspection by IHCD A need not be reported to the IRS by the IHCD A. The Owner and/or management agent must keep documentation outlining: the noncompliance issue, date the noncompliance issue was discovered, date that noncompliance issue was corrected, and actions taken to correct noncompliance.~~

~~Example: A household was initially income qualified and moved into a unit on January 1, 2007. The maximum LIHTC gross rent is \$500. At time of recertification on January~~



*1, 2008 the owner increased the rent to the market rate of \$1,000. During an internal audit dated February 1, 2008 the Owner and/or management agent noticed that the unit was out of compliance, because the rent charged exceeded the maximum LIHTC Rent Limit. On February 1, 2008, the Owner and/or management agent immediately corrected the noncompliance issue, documented the file as to what the noncompliance issue was, the date that it was corrected, and what actions were taken to correct the noncompliance issue. On June 21, 2008 IHCDA notified the Owner and/or management agent of an upcoming compliance review. Because the noncompliance issue was discovered and corrected by the Owner/management agent prior to the notice of IHCDA's upcoming compliance review, IHCDA is not required to report the noncompliance issue to the IRS.*

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### **Part 5.11 Extended Use Policy**

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*The purpose of the Extended Use Policy is to outline the inspection and monitoring requirements for each LIHTC development once the initial 15 Year Compliance Period has ended. The Compliance Period is the time period for which a building must comply with the requirements set forth in Section 42 of the Internal Revenue Code and credits can be recaptured for noncompliance (i.e. the Development's first 15 taxable years). The Extended Use Period is the time frame which begins the first day of the initial 15 year compliance period, on which such building is part of a qualified low-income housing Development and ends 15 years after the close of the Initial Compliance Period, or the date specified by IHCDA in the Declaration of Extended Low-Income Housing Commitment.*

#### **A. Qualifying for the Extended Use Policy**

*In order to qualify for the Extended Use Policy, the following criteria must be met:*

- 1) The Owner of the development must request a waiver granting use of the Extended Use Policy via the "IHCDA Extended Use Waiver Request Form" (available in Appendix D at <http://www.in.gov/ihcda/2519.htm>).*
- 2) The development's Annual Owner Certifications, On-Site Inspections, and File Monitorings must be free of noncompliance for the three consecutive years leading up to year 15 (years 13-15) or any three consecutive years thereafter (years 14-16, 15-17, 16-18, etc.). Free of noncompliance means that IHCDA did not issue IRS Form 8823 during this time period.*

*NOTE: The only exception to this rule is if Form 8823 is filed to show the correction of a previously reported noncompliance problem and only if that previous noncompliance was reported prior to the three year Qualifying Period.*

*Example 1: A development is issued an 8823 in year 13. Later that year, a corrected Form 8823 is issued to show that the noncompliance has been resolved. Although the issue has been resolved, year 13 is not free of noncompliance and thus the Qualifying Period cannot begin this year.*

*Example 2: A development is issued an 8823 in year 12. In year 13, the noncompliance is resolved and a corrected Form 8823 is issued. Since the*



noncompliance was found in year 12, year 13 is considered to be “free of noncompliance” as the Form 8823 filed in this year was only to report the correction of noncompliance that occurred prior to the beginning of the Qualifying Period.

Upon approval of the waiver request, the Owner must have the Declaration of Extended Low-Income Housing Commitment amended to include the Extended Use provisions. The cost of recording the Declaration of Extended Low-Income Housing Commitment will be incurred by the Owner.

**B. Reporting Requirements**

The reporting requirements for developments approved for the Extended Use Policy are as follows:

- 1) The Owner will submit the Extended Use Annual Owner Certification for every year of the Extended Use Period annually by January 31.
- 2) The Monitoring Fee will be \$10 per unit. However, IHCD will not charge a fee for units that have Rural Development or Tenant Based Section 8 funding. (See Part 5.11 D6).
- 3) The Owner must continue to enter all tenant events in the IHCD Online Reporting System within thirty (30) days of the event date. (For more information on online reporting requirement see Part 2.2, J).
- 4) The Utility Allowances must continue to be updated annually. (For more information on Utility Allowances, see Part 3.4).
- 5) The Owner will submit the Affirmative Marketing plan for the development annually.

**C. Record Retention Requirements**

- 1) Tenant files for move-ins will be retained for a minimum of six years from the date of move-in.

**D. Compliance Requirements**

The compliance requirements for developments approved for the Extended Use Policy are as follows:

- 1) All Tax Credit units must remain rent restricted at the state set-asides and income restricted at the federal set-aside. HOME units must remain both rent and income restricted at the state set asides.
- 2) Move-in files must contain third party verification of income. Additionally, if new member(s) are added to the household after initial move-in, third party verification of income for the new member(s) only is required.

- 3) The 140%/ New Available Unit Rule will not apply during the Extended Use Period.
- 4) The Vacant Unit Rule will not apply during the Extended Use Period. However, if there are high vacancy rates in the development, IHCDA reserves the right to request proof of Marketing Efforts and an explanation of the high vacancy rate.
- 5) The Full Time Student Rule will not apply during the Extended Use Period.
- 6) File monitorings will occur once every five (5) years. However, IHCDA reserves the right to monitor more frequently if deemed necessary. During a monitoring, 10% of the units will be monitored. If 10% of the units equals 20 units or less, then a desktop monitoring will occur (IHCDA will request that scanned files be submitted). If 10% of the units equals 21 units or more, an on-site monitoring will be performed. If issues are identified during the monitoring, a correction period of sixty (60) days will be allowed. IHCDA may, at its discretion, allow extensions up to six (6) months.
- 7) Physical Inspections will continue once every three (3) years. However, IHCDA reserves the right to inspect more frequently if deemed necessary. Rural Development Inspections or Project Based Section 8 Inspections will be accepted in lieu of the IHCDA's Physical Inspection where applicable. The Rural Development or Projected Based Section 8 Inspection should be submitted to IHCDA within thirty (30) days of receipt.
- 8) Projects that did not elect to be treated as "Multiple Building Projects" on form 8609 during the first 15 years will automatically be treated as multiple building projects during the Extended Use Period. Therefore, transfers within 100% Tax Credit buildings in the development will not be treated as new move-ins and thus will not trigger an initial move-in certification.
- 9) Annual recertifications require only the completion of the IHCDA "Extended Use Annual Household and Rent Update Form" (available in Appendix D at <http://www.in.gov/ihcda/2519.htm>). This means that income verifications will only be required at initial move-in during the Extended Use Period.
- 10) Rental housing developments must participate in the Affordable Housing Database, [www.indianahousingnow.org](http://www.indianahousingnow.org).

#### E. Commitment Changes

The following changes may be allowed during the Extended Use Period with IHCDA approval.

- 1) If the development can justify the need for a staff unit, the employee does not have to be full time. For more information on requesting a staff unit, see Part 3.6 D.
- 2) The Owner can change transitional units or homeless units to permanent supportive housing with IHCDA approval.





**F. Noncompliance with Extended Use Policy**

Issues of noncompliance identified during the Extended Use Period may be addressed by IHCDA in one or more of the following manners:

- 1) If a development does not show “Due Diligence” in using the Extended Use Policy, IHCDA will issue IRS Form 8823 to the Internal Revenue Service. IHCDA may also enforce the Extended Use Period compliance regulations through all applicable legal remedies.
- 2) The Owners, General Partners, and/or Management Agents will be considered “Not in Good Standing with IHCDA”, and will not be allowed to participate in future tax credit applications or other IHCDA programs.
- 3) IHCDA reserves the right to reinstate all prior declaration requirements.

**G. Reinstatement of Extended Use Policy Waiver**

A development that was removed from the Extended Use Policy due to issues of noncompliance in the Extended Use Period may be reinstated in the following manner:

- 1) To bring a development back into compliance, the development will reenter the 3 year “Qualifying Period” and must be free of noncompliance during this time in order to regain Extended Use Policy privileges. During this time, the development must follow all Section 42 guidelines that were in effect during the Initial 15 Year Compliance Period.
- 2) Once the Qualifying Period has been completed, the Owner may request reinstatement of the Extended Use Policy.

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**Part 5.12 Casualty Loss**

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ADDED

Casualty loss information should be reported to:

Indiana Housing & Community Development Authority  
ATTN: Multi-Family Inspector  
30 S. Meridian St., Suite 1000  
Indianapolis, IN 46204

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## Part 6.4 Notification by Owner to IHCD

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Added the following language that was previously located in Parts 2.2 L and 5.10. This can still also be found under Part 2.2 but has been removed from Part 5.10

Noncompliance issues identified and corrected by the owner prior to notification of an upcoming compliance review or inspection by the IHCD need not be reported to the IRS by IHCD. The Owner and/or management agent must keep documentation outlining: the noncompliance issue, date the noncompliance issue was discovered, date that noncompliance issue was corrected, and actions taken to correct noncompliance.

Example: A household was initially income qualified and moved into a unit on January 1, 2007. The maximum LIHTC gross rent is \$500. At time of recertification on January 1, 2008 the owner increased the rent to the market rate of \$1,000. During an internal audit dated February 1, 2008 the Owner and/or management agent noticed that the unit was out of compliance, because the rent charged exceeded the maximum LIHTC Rent Limit. On February 1, 2008, the Owner and/or management agent immediately corrected the noncompliance issue, documented the file as to what the noncompliance issue was, the date that it was corrected, and what actions were taken to correct the noncompliance issue. On June 21, 2008 IHCD notified the Owner and/or management agent of an upcoming compliance review. Because the noncompliance issue was discovered and corrected by the Owner/management agent prior to the notice of IHCD's upcoming compliance review, IHCD is not required to report the noncompliance issue to the IRS.

ADDED

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## Part 6.9 Noncompliance during the Extended Use Period

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For information on noncompliance during the Extended Use Period, see Parts 5.12 F & 5.12 G.

## Section 7 - Glossary

ADDED/UPDATED TERMS:

Due Diligence: The appropriate, voluntary efforts to remain in compliance with all applicable Section 42 rules and regulations. Due diligence can be demonstrated through business care and prudent practices and policies. The 8823 Guide (page 3-4) indicates that part of due diligence is the establishment of internal controls, including but not limited to: separation of duties, adequate supervision of employees, management oversight and review (internal audits), third party verifications of tenant income, independent audits, and timely recordkeeping. IHCD expects all RHTC developments to demonstrate due diligence.

Extended Use Policy: The compliance rules and monitoring procedures for developments that have entered their Extended Use Period. For more information, see Part 5.11.



**Multi-Family Department (MFD) Notices:** *Notices published by IHCDA's Multi-Family Department to announce changes, updates, or clarifications on policies and issues affecting the Section 42 RHTC Program. These notices are made available online at <http://www.in.gov/ihcda/2520.htm> and are also posted on the message board on the Indiana Housing Online Management rental reporting system (<https://ihcdaonline.com/>).*

**Next Available Unit Rule:** *(See definition under 140% Rule)*

**Noncompliance:** *The period of time that a Development, specific building, or unit is ineligible for RHTC because of failure to satisfy program requirements.*

**Qualifying Period:** *To qualify for the compliance rules outlined in IHCDA's Extended Use Policy, a development must have Annual Owner Certifications, On-site Inspections, and File Monitorings free of noncompliance for three consecutive years. This three year, noncompliance free period is called the Qualifying Period.*

**Note:** *The Qualifying Period begins in years 13-15. If noncompliance is found in year 13, the Qualifying Period restarts for years 14-16, so on and so forth, until there have been three consecutive years with no issues of noncompliance. Once the Qualifying Period has been met, the development qualifies for the Extended Use Policy.*

**Section 42:** *Section 42 of the Internal Revenue Code of 1986, as Amended, which establishes the Rental Housing Tax Credit Program.*

**Utility Allowance:** The amount of utilities for a particular unit, as set by a Utility Allowance schedule published by HUD, Rural Development, or the PHA, or **established by** a letter from the utility company which states the rates, **an IHCDA estimate, the HUD Utility Schedule Model, or an Energy Consumption Model as calculated by an approved engineer or licensed professional.**

**The IRS requires that Utility Allowances be set according to IRS Notice 89-6 and Federal Register Vol. 73, No. 146 "Section 42 Utility Allowance Regulations Update" (both resources are available in Appendix A of the 2009 Compliance Manual at <http://www.in.gov/ihcda/2519.htm> )**

**For more information see Part 3.4.**

**Vacant Unit Rule:** *Vacant units formerly occupied by low-income individuals may continue to be treated as occupied by a qualified low-income Household for purposes of the Minimum Set-Aside requirement (as well as for determining qualified basis) provided reasonable attempts were or are being made to rent the unit (or the next available unit of comparable or smaller size) to an income-qualified tenant before any units in the development were or will be rented to a nonqualified tenant. Management must document that reasonable attempts were made to rent vacant tax credit units before renting vacant market-rate units.*

